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SUBJECT: PART II OF II: AZERBAIJAN 2007 TIP REPORT SUBMISSION

REF: 06 STATE 202745

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INVESTIGATION AND PROSECUTION OF TRAFFICKERS

1A. In June 2005 the GOAJ adopted the Law on the Fight Against Trafficking in Persons (amended in January 2006), and in October 2005 adopted relevant criminal code amendments to establish penalties for the crimes outlined in the law. The law was written in close consultation with the international community and as such, meets international standards and covers a plethora of TIP circumstances. The law itself bans trafficking for the purposes of human exploitation, which includes a broad range of activities including sexual exploitation, forced labor, slavery, recruitment for unlawful activity, etc. The law makes no distinction that the activity must involve crossing international borders. The law also sets out an ambitious program that relevant authorities within the GOAJ must undertake in order to investigate, prosecute, and prevent trafficking, as well as provisions for victim protection and rehabilitation.

Prior to the law's passage and adoption of criminal code amendments, traffickers were convicted under the country's laws that covered trafficking-related crimes. Outside of the law specifically criminalizing TIP, traffickers may be prosecuted under articles prohibiting slavery, rape, forced prostitution, sexual coercion, operation of brothels, the trade and transit of minors, and involvement of minors under the age of 16 in sexual coercion,

prostitution or other obscene acts, and travel document forgery. Taken together, these laws encompass the full scope of possible trafficking activities.

The above represents a full inventory of trafficking laws in Azerbaijan, with the relevant penalties described below. The 2005 TIP legislation included, for the first time, the possibility of confiscation of property. While roughly equivalent to a civil forfeiture law, this provision is included in the criminal code.

1B. The criminal code amendments passed by Parliament in October 2005 establish the following penalties for "human trafficking" without distinction as to the type of human trafficking:

-- Trafficking of one human being is punishable by five to ten years' imprisonment and confiscation of property.

-- Trafficking of more than one person, committed repeatedly, or with various special circumstances is punishable by eight to 12 years' imprisonment with confiscation of property.

-- Trafficking that results in the death of a victim or other grave results due to negligence is punishable by ten to 15 years' imprisonment with confiscation of property.

The criminal code also outlines penalties for dissemination of confidential information about a TIP victim, which is a fine of 100

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to 500 times the "nominal fiscal unit," equal to 5,500 old manats or approximately USD 1.26, (the average monthly salary is currently approximately USD 140); up to 240 hours of community service; or up to one year of correctional labor. Should the same act be committed by a person using his or her official status, the fine is increased

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to 500 to 1,000 times the average monthly salary; one year of correctional labor; or up to six months' imprisonment. If the same actions include grave results, the punishment is one to five years' imprisonment.

1C. Trafficking for labor exploitation, like other forms of trafficking, is punishable as "human trafficking" under the criminal code, with penalties as described above. While labor recruiters in labor source countries are convicted under the article on "human trafficking," employers and labor agents who confiscate workers' passports and keep workers in a state of service are convicted under a separate article on forced labor. This is punishable by up to two years of correctional work or imprisonment, unless it is organized and carried out by a group, in which case the law would consider it an aggravating circumstance and increase the punishment to three to five years of imprisonment.

1D. Under the criminal code provisions, traffickers prosecuted for sexual violence (which can include rape, compulsion to prostitution, compulsory sterilization or commitment against persons of other actions connected to sexual violence) may receive a jail sentence of ten to 15 years or life imprisonment. Rape itself is punishable by four to 15 years. Violent actions of a sexual nature carry a sentence of three to eight years, or up to 15 if the victim is a minor, dies, or contracts HIV. Coercion into sexual actions is punishable by a fine, corrective works, or imprisonment up to three years. The more punitive charges are in line with the penalties for sex trafficking.

1E. Prostitution is illegal in Azerbaijan. The activities of a prostitute, brothel owner/operator, pimp, and enforcer are all criminalized and the laws are enforced. The actions of a client are not criminalized.

1F. The National TIP coordinator and the Head of MIA's Unit to Combat Trafficking in Persons brief USG personnel on the latest trafficking prosecution statistics at virtually every meeting. The GOAJ was prompt and forthcoming with requested information on trafficking investigations, prosecutions, and convictions.

During 2006, the GOAJ reported that it opened 192 criminal cases related to trafficking in persons. Eight cases were still under investigation at year's end. Out of the remaining 184 cases, 156 were sent to the courts and 28 were closed without criminal charges.

Out of the opened criminal cases, 38 were prosecuted under trafficking in human beings, four under coercion to sexual activities, three under involving a minor in prostitution, 33 under involvement in prostitution, and 86 in managing a brothel.

Under the charges of trafficking in human beings and involvement in prostitution, as of March 1, 24 individuals had been imprisoned, six individuals had received administrative charges (fines or injunctions), six individuals had received suspended sentences, and 24 individuals had been fined. Out of these cases, 53 of the convicted are women and seven are men.

Ten cases are still under consideration by the courts. As of March 1, 21 individuals remained in prison on trafficking-related convictions.

¶G. The GOAJ has provided little information about the identity of convicted or suspected traffickers. Anecdotal evidence suggests

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they are men or women, working alone or in small groups, who say they will arrange for employment abroad, then force the victims to work in the sex industry. Victims may give prior consent to working in the sex industry but are not told the circumstances under which they will work. Prostitution rings run by local organized crime groups throughout the country are also potential perpetrators. We do not have any credible evidence of government officials' involvement in trafficking.

¶H. The Special Anti-TIP Police Unit (SPATS) within the MIA's Unit to Combat Trafficking in Persons is responsible for investigating TIP cases, in conjunction with local police units and other relevant law enforcement personnel. When the GOAJ becomes aware of trafficking activity, it investigates the activity. However, the GOAJ needs to increase its capacity to conduct proactive TIP investigations. We hope that further training of the SPATS will serve both to increase the unit's capacity to investigate sensitive TIP crimes and to work more closely with its international counterparts.

The GOAJ does not share the specific investigative techniques it uses for such investigations, but Azerbaijani police do use active investigation techniques, such as surveillance and undercover operations, and are not prohibited from engaging in covert operations.

¶I. The GOAJ has incorporated TIP-specific training into its regular courses for police units and prosecutors throughout the country. The GOAJ provides and briefs its officers and prosecutors on the NAP and relevant legislation. During the year prosecutors and officers participated in trainings, both internationally and domestically, that included trafficking components. The USG has also provided training to prosecutors on identifying and prosecuting TIP cases, as well as implementing the TIP law. As of March 1, prosecutors from MIA's Unit to Combat Trafficking in Persons and SPATS officers were undergoing TIP training funded by the OSCE.

¶J. The GOAJ reported that during the reporting period, it received no requests for assistance with international TIP investigations. However, the GOAJ reported that its anti-TIP personnel established ties through joint trainings and seminars with Russia, Turkey, Austria, Germany, Italy, Georgia, and Kazakhstan during the year. The GOAJ also works with CIS-member states through the CIS Executive Secretariat to link anti-TIP efforts throughout the territory of the

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former Soviet Union.

¶K. The GOAJ did not extradite traffickers to foreign countries during the year, nor were any Azerbaijani nationals extradited to foreign countries for prosecution in TIP crimes. The GOAJ has signed bilateral extradition treaties with Russia, Bulgaria, Kyrgyzstan, Uzbekistan, Iran, Ukraine, and Lithuania.

L, M. There is no evidence of GOAJ involvement in or tolerance of trafficking on a local or institutional level. However, we suspect that low-level civil servants, local law-enforcement officers, and border guards may accept bribes in exchange for turning a blind eye to migrant smuggling and possible trafficking activities. High-ranking government officials are rumored to own some of the saunas and restaurants in Baku and in the regions where prostitutes work, but we have no evidence of the officials' investment or direct involvement in these businesses, nor do we know whether prostitutes working in those establishments are in fact trafficking victims. No government officials have been prosecuted for trafficking or

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trafficking-related corruption.

1N. There is no evidence of child sex tourism in Azerbaijan.

1O. The GOAJ has signed and ratified ILO conventions 29 (May 19, 1992) and 105 (August 9, 2000) on forced or compulsory labor and Convention 182 (March 30, 2004) on the worst forms of child labor.

Azerbaijan has joined the European Charter Article on Protecting Child and Youth Rights. In August 2003, the Government ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography.

In May 2003 the GOAJ ratified the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against the Transnational Organized Crime (the Palermo Protocol).

PROTECTION AND ASSISTANCE TO VICTIMS

1A. In October 2006, the GOAJ opened a permanent shelter for TIP victims. The GOAJ is working to open an NGO-led TIP hotline, which will also serve as a referral mechanism for the shelter. Until the hotline and referral mechanism are in place, the shelter will not function as intended. As of March 1, four victims have been housed at the shelter - all referred directly by the MIA. The shelter provides access to legal, medical, and psychological services for TIP victims. Families of underage TIP victims can also be housed in the shelter. The GOAJ reported that in 2006, in addition to the four victims who received assistance at the shelter, 15 were referred to medical centers for treatment. Prior to the opening of the shelter, some NGOs sheltered victims in private homes.

The Law on Trafficking passed in 2005 provides for relief from deportation for victims for up to one year. If a victim cooperates in the investigation, the victim is entitled to stay until the court case is completed. A victim can also apply to the relevant government authorities for immigrant status.

1B. The GOAJ lacks the necessary resources and mechanisms to provide financial support to domestic NGOs for services to trafficking victims; domestic NGOs in all fields receive most of their funding from international sources.

1C. There is no formal victim screening and referral system in place. Until the shelter opened in October, the GOAJ worked with local and international NGOs and state healthcare institutions on an informal basis to provide trafficking victims with short-term care. Since the shelter opened, the MIA has referred four victims to the shelter for short-term care. Once the NGO-led TIP hotline is functional, a formal screening and referral system will be in place to transfer victims to the victims' assistance shelter.

1D. The Embassy has received no reports of trafficking victims being jailed. The GOAJ reported that former victims of trafficking have been convicted for involving others in prostitution, but we have no evidence that victims of trafficking have been prosecuted for violations of the law because of their actions while being trafficked. IOM reported that in 2006, several Azerbaijani TIP victims were detained after arriving in Baku on late night flights

from Istanbul, Turkey. These victims were released after active IOM intervention, usually within several hours of the detention. The Embassy has received no reports of trafficking victims being deported, although there is a discrepancy on the status of a large group of Uzbeks who were deported, as previously described. The GOAJ maintains that the Uzbeks were prostitutes while NGOs reported that they were TIP victims.

1E. Trafficking victims rarely file civil suits or seek legal action against the traffickers, but there are no legal restrictions on their ability to do so. There are no restrictions on a witness' actions during a court case. Once the victims' assistance shelter procedures are fully in place, there will be a standardized process for obtaining testimony from victims and asking permission to use their testimony in court. The TIP law permits a victim to gain employment elsewhere if he or she is a witness in a case against a trafficker; it also permits a victim to remain in the country if he or she wishes. The TIP law also provides for a victim restitution program.

1F. The GOAJ is unable at this time to provide special protection for victims and witnesses beyond providing short-term protective custody. The MIA, and specifically vetted officers of a specific division of the SPATS, provides security for victims housed in the shelter. While there were reported child trafficking victims during the year, we do not know what assistance or care they received. We assume that the children were either returned to their families or placed in orphanages.

1G. The NAP and the accompanying TIP legislation includes training for NGO groups, police specialists, and other government officials in how to recognize trafficking and provide assistance to trafficked victims, including the special needs of trafficked children. In 2006, the GOAJ reported that the MIA conducted TIP-related training for employees of the Police Academy, the Ministry of Justice's Legal Education Center, and the Prosecutor General's Office's Education Center. According to the GOAJ, state officials also participated in TIP-related training in Turkey, Kazakhstan, Austria and Italy.

Under the GOAJ's TIP legislation, embassies and consulates are instructed to provide quickly the necessary documentation for victims abroad to return to Azerbaijan.

1H. The GOAJ now provides medical assistance and shelter to repatriated victims at the TIP victims' assistance shelter. Prior to the shelter's October 2006 opening, the GOAJ provided medical assistance to repatriated victims at state medical clinics, and provided shelter and counseling through local international NGOs. Victims of trafficking are entitled to financial compensation under the TIP law.

1I. IOM conducts substantive research on the trafficking problem in Azerbaijan; however, personnel changes and other intervening circumstances inhibited IOM's efforts during the year to take a leading role on TIP issues. The USG, IOM, and OSCE provide guidance and conduct anti-TIP programs (as did ABA-CEELI until December), including conducting a TIP Coalition Building Seminar for NGOs and training NGO employees to work at the TIP shelter and hotline. Several national domestic NGOs also deal with the problem of trafficking, including Clean World, the Women's Crisis Center, the Center for Legal Assistance to Migrants, Symmetry, the Forum of Azerbaijan NGOs on Migration (FANGOM, a network of 35 NGOs), and the

Azerbaijan Children's Union. There are also several regional NGOs that concentrate on trafficking programming. These NGOs serve primarily as contact points for at-risk populations and engage in some information campaigns about the dangers of trafficking. Two of these organizations also informally shelter local and foreign trafficking victims. The Center for Legal Assistance to Migrants provides free legal services to trafficking victims and works with other NGOs to coordinate services. The Women's Crisis Center

operates a crisis hotline and provides free legal, psychological, and medical services. In 2006, seven women who contacted the center for assistance (or whose families contacted the center) reported that they had been trafficked. Under a grant awarded through the U.S. Embassy Democracy Commission to support programs on trafficking, in August, Clean World together with several other NGOs and government officials completed a fourteen month-long series of trainings throughout Azerbaijan for broad audiences. Through this same project, Clean World also produced a pamphlet for distribution that included extensive information regarding advice when traveling abroad, how to recognize potential traffickers, how to verify employment offers (including contact numbers for embassies and consulates), how to find assistance if you have been or are being trafficked, and case studies. Many NGO representatives and professional journalists have written about the trafficking problem in national newspapers and magazines. The Government in general does not interfere in these NGOs activities and at times facilitates civil society efforts to combat trafficking.

END TEXT OF REPORT.

14. (U) Embassy Baku's point of contact for this report is Political Officer Rebecca Naslund (FS-05), who spent 35 hours speaking with local non-governmental organizations, international organizations, journalists, and GOAJ officials and analyzing the data provided to prepare this report. Her contact information is e-mail: NaslundRJ@state.gov; phone: (99412) 498-0335 or TIE line 641-4210; fax: (99412) 465-6671.

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